



- (2) Future medical.
- (3) Nature and extent of disability.
- (4) Average weekly wage.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the entire record and having considered the briefs and arguments of the parties, the Appeals Board finds that the Award entered by the Administrative Law Judge should be affirmed.

This case was extensively and well briefed by both of the parties. It presents a close question with regard to the nature and extent of claimant's disability. However, on balance, the Appeals Board finds that the weight of the credible evidence fails to support claimant's contention that her low back condition is materially worse now than what it was before her work-related accident. The Administrative Law Judge noted claimant's attempts to minimize the severity of her preexisting condition. By implication the Administrative Law Judge also inferred that the claimant was likewise exaggerating her subjective complaints post-accident. The Administrative Law Judge noted that his perception concerning the claimant's credibility based upon his observation of in-person testimony was a factor in his decision. The claimant's delay in seeking medical treatment for her back injury was an additional factor in both the Administrative Law Judge's and the Board's conclusion that claimant's low back condition was not as severe as represented or permanently aggravated by her accident at work.

The findings and conclusions as enumerated in the Award by the Administrative Law Judge are found to be accurate and appropriate and are hereby adopted by the Appeals Board. The Appeals Board agrees that the claimant has sustained her burden of proof that her low back sprain or strain and her urinary stress incontinence conditions were the result of the work-related accident. The Appeals Board further adopts the analysis of the evidence by the Administrative Law Judge regarding claimant's average weekly wage and limited future medical award.

#### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award by Administrative Law Judge Bruce E. Moore dated December 4, 1996, should be, and is hereby affirmed in all respects and the orders contained in said Award are hereby adopted by the Appeals Board as its own.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May 1997.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Jan L. Fisher, Topeka, KS  
Richard J. Liby, Wichita, KS  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director